

REMARKS

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow. Claims 1 and 5-14 remain pending in the application. Claim 1 is currently amended to add additional subject matter and to incorporate the subject matter of claims 2-4. Consequently, claims 2-4 are cancelled as redundant. Support for the amended claims may be found in the specification as originally filed, *inter alia*, on page 5, lines 8-17. Claims 11-14 are withdrawn from consideration. Thus, claims 1 and 5-10 are currently pending and under consideration in the application.

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

Rejection Under 35 U.S.C. § 112

On page 2 of the Office Action, the PTO has rejected claims 1 and 5-7 under 35 U.S.C. § 112, first paragraph for allegedly failing to comply with the written description requirement. Claim 1 was amended to read “volatile active deodorizing agents” as supported on page 6, line 15, of the specification as originally filed. Additionally, the specification discloses that “natural wind acts as the stream of air” on page 5, lines 19-20. In view of the foregoing, Applicant respectfully requests reconsideration and withdrawal of the outstanding rejection under § 112.

Rejection Under 35 U.S.C. § 103

On page 3 of the Office Action, the PTO has rejected claims 1, 5-8, and 10 under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent 4,511,552 to Cox (hereafter “Cox”) in view of U.S. Patent 4,339,550 to Palinczar *et al.* (hereafter “Palinczar”) and U.S. Patent 5,304,358 to Hoyt *et al.* (hereafter “Hoyt”). On page 7 of the Office Action, the PTO has rejected claim 2 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Cox in view of Palinczar and Hoyt, and further in view of U.S. Patent 5,460,787 to Colon (hereafter “Colon”). On page 8 of the Office Action, the PTO has rejected claim 3 in under 35 U.S.C. § 103(a) as allegedly being unpatentable over Cox in view of Palinczar and Hoyt, and further in view of PTO Publication WO 2001/78794 to Shah *et al.* (hereafter “Shah”). On page 9 of the Office Action, the PTO has rejected claim 4 in under 35 U.S.C. § 103(a) as allegedly

being unpatentable over Cox in view of Palinczar and Hoyt, and further in view of U.S. Patent 3,567,118 to Shepherd *et al.* (hereafter “Shepherd”). On page 11 of the Office Action, the PTO has rejected claim 5 in under 35 U.S.C. § 103(a) as allegedly being unpatentable over Cox in view of Palinczar and Hoyt, and further in view of U.S. Publication 2003/0024997 to Welch *et al.* (hereafter “Welch”). On page 12 of the Office Action, the PTO has rejected claim 9 in under 35 U.S.C. § 103(a) as allegedly being unpatentable over Cox in view of Palinczar and Hoyt, and further in view of U.S. Patent 5,071,645 to Johnson *et al.* (hereafter “Johnson”). Applicant respectfully traverses these rejections for at least the reasons set forth below.

The framework for the objective analysis for determining obviousness under §103 requires:

1. Determining the scope and content of the prior art;
2. Ascertaining the differences between the claimed invention and the prior art;
3. Resolving the level of ordinary skill in the pertinent art; and
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Teleflex, Inc. v. KSR Int’l Co., 127 S. Ct. 1727, 82 USPQ2d 1385 (2007); *Graham v. John Deere Co.*, 383 U.S. 1, 17-18 (1966). In order to establish a *prima facie* case of obviousness, all the claim limitations must be taught or suggested by the prior art. *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991). See MPEP §2143.03.

Here, Cox, Palinczar, Hoyt, Colon, Shah, Shepherd, Welch, and Johnson, whether taken individually or in combination, fail to teach or suggest that “two parallel boards essentially completely open on all sides ... [and] ... crumbs, boards or strips 0.5 to 3 cm wide laid on nets or lattices that are incorporated between the parallel boards” as recited in claim 1.

Cox discloses a method for treating a lagoon receiving waste from an industrial plant and “deodorizing effluent gasses from lagoons over an extended period of time.” Col. 5, lns. 27-28 and 42-44. Gel products are either extruded from a tube onto a surface or from a daub or ribbon or are placed on a lagoon. Col. 2, lns. 28-31; Col. 7, lns. 37-39. Cox fails to teach “two parallel boards essentially completely open on all sides ... [and] ... crumbs, boards or strips 0.5 to 3 cm wide laid on nets or lattices that are incorporated between the parallel boards,” and also fails to teach that a “crosslinked polymer comprises a condensation product

of a maleinized or epoxidized polymer and a polyamine as the crosslinking agent or a copolymer of a monofunctional (meth)acrylic monomer and a polyfunctional (meth)acrylic monomer as the crosslinking agent; [and] wherein the spongelike composition is incorporated between two parallel boards” as recited in claim 1. Rather, the deodorant of Cox is contained in a binder or carrier, such as a paraffin or a gelatin. Abstract. Furthermore, the deodorant is either extruded from a tube onto a surface or from a daub or ribbon or are placed on a lagoon. Col. 2, lns. 28-31; Col. 7, lns. 37-39.

Palinczar discloses a carrier that is a hydrophilic polyurethane foam. Abstract. This differs from the presently claimed invention that requires that “the crosslinked polymer comprises a condensation product of a maleinized or epoxidized polymer and a polyamine as the crosslinking agent or a copolymer of a monofunctional (meth)acrylic monomer and a polyfunctional (meth)acrylic monomer as the crosslinking agent.”

Hoyt discloses that the air freshener has “peripheral vents so that the fragrance from the carrier medium will be permitted to discharge exteriorly of the device.” Col. 1, lns. 61-63; Figs. 1 and 9. This differs from the presently claimed invention which requires that the “two parallel boards essentially completely open on all sides” as in the presently claimed invention.

Colon discloses that the board “width would be in the range of from one and one-half inches to two and one-half inches” (3.81 – 6.85 cm), the complete range larger than the 0.5 to 3 cm as presently claimed. Col. 9, lns. 13-14.

Furthermore, the air fresheners described in Hoyt, Colon, Shah, Shepherd, and Welch are air freshening or deodorizing devices which may be used in households or confined/closed spaces, used by a static process. This differs greatly from the dynamic process of the presently claimed invention, utilizing deodorizers in open-air, large-scale plants. The devices disclosed in Hoyt, Colon, Shah, Shepherd, and/or Welch would not be used in the presently claimed invention. Consequently, it would not have been obvious to combine the Hoyt, Colon, Shah, Shepherd, and Welch with Cox and apply this combination to deodorizing large-scale plants as in the presently claimed invention.

For at least these reasons, Applicant submits that the outstanding rejections have been overcome and ought to be withdrawn.

If an independent claim is nonobvious under §103, then any claim depending

therefrom is nonobvious. *In re Fine*, 5 USPQ2d 1596 (Fed. Cir. 1988). See MPEP 2143.03. Thus, Applicant submits that claims 5-10, each of which ultimately depends from independent claim 1, are also non-obvious at least by virtue of their dependency from claim 1.

In view of the foregoing, Applicant respectfully requests reconsideration and withdrawal of the outstanding rejection under §103.

CONCLUSION

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check or credit card payment form being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

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By P.D.S.

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